

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

LYNWOOD UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015100575

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
HEARING DATES

On January 26, 2016, Student filed a request to continue the dates in this matter with the Office of Administrative Hearings, based upon need for additional time to settle this matter as proposed settlement agreement needs to be translated for Parent to sign and that Student's counsel is involved in a criminal trial that is set to last until April 2016. On January 27, 2016, Lynwood Unified School District informed OAH that it does not oppose Student's continuance request.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. OAH previously granted the parties a continuance on October 29, 2015, which set this matter for a prehearing conference for

January 29, and hearing on February 8 through 10, 2016. According to Student, the parties have reached an agreement, but it needs to be translated so Parent can review. Also, Student's legal counsel asserts that he is involved in a criminal trial that might next through April. Student established good cause for a short continuance to permit settlement agreement translation, but not for the criminal trial as insufficient proof was submitted as to that event. Therefore, this matter will be set as follows:

Prehearing Conference:	February 12, 2016, at 3:00 PM
Due Process Hearing:	February 23, 2016, at 9:30 AM, February 24 and 25, 2016, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. This matter is assigned to ALJ Clifford Woosley.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: January 27, 2016

/s/  
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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings